



# Legislative bulletin

March 20, 2023

## Hot topics

### **Impact map for transit-oriented development bill released, reveal broad scope**

We have been updating cities on the progress of the Governor-requested **SB 5466** which would mandate upzones around significant transit assets. AWC supports the goals and intent of this bill. Maximizing both density—and affordability—around rapid transit is a pillar of the proposal put forward by the AWC Housing Solutions Group. **SB 5466** has several elements that are more challenging, however, especially the scope of impact and restrictions of authority to provide for parking.

### **Contact your legislators about the need to support vehicular pursuits legislation**

AWC needs cities to reach out to your House members. Urge them to support **SB 5352** and ask their leadership to ensure the bill will be voted on. Your voices could make a substantial difference in whether this bill will move forward. While we are encouraged by the Senate's last-minute actions, the bill still has a considerable way to go if it will be enacted into law this session.

### **Share your concerns about prevailing wage bill heard in the House this week**

Despite its good intentions, **SB 5726** presents implementation challenges for cities. The bill, which requires that wages paid to public works laborers be no less than the prevailing wage in effect at the time the work is performed, recently received amendments with the potential to confuse the bidding process and create excessive change orders. Contact your legislators now and communicate your concerns about the impact of the bill; then sign up to testify or submit written comments.

## Media time

### **CityVoice Podcast—News from the hill**

We're more than halfway through the 2023 legislative session, and just past the house-of-origin cutoff. Today we join AWC's Government Relations Director, Candice Bock, to get the latest (and greatest) news from the hill, including an update on bills that have died—or taken on new life. Candice also talks middle housing, police pursuits, and budgets.

## View from the hill

### **Budgets are coming**

Today's revenue forecast kicks off the race to develop and adopt the biennial operating, capital, and transportation budgets for 2023-2025. The Senate will release its operating and capital proposals this week and its transportation proposal mid-next week. The House is expected to introduce all three of its proposals on Monday, March 27. Once each body has introduced and heard their own versions, they will start serious negotiations to develop a final product. In February, AWC submitted a letter highlighting city budget priorities. The Legislature will have to split its focus as it continues to work through many bills that are subject to the policy committee cutoff deadline by March 29. For a list of bills AWC is keenly focused on, check out this week's Bill Hot Sheet.

### **AWC city action calls – Members only**

#### **Fridays at 12:30 pm | Online**

Join our city action calls for AWC members each Friday to hear updates directly from your team of lobbyists on the latest action on the hill and progress on bills of importance to cities. Make sure to sign up in advance each week. After registering, you will receive a confirmation email containing the Zoom link for that week's call. Register now for this Friday's call.

## Action items

### **Internet for All Washington: kick-off event on March 29**

The Washington State Broadband Office (WSBO) invites you to an informational webinar about the federal Internet for All funding programs. WSBO is preparing to apply for a portion of nearly \$5 billion in broadband infrastructure grants and is developing the state's five-year action plan for Broadband Equity, Access, and Deployment (BEAD) and Digital Equity (DE). WSBO seeks to establish partnerships across the state and to incorporate a diverse set of voices in its planning. Learn more about the BEAD and DE plans and how to stay involved, then register for the event.

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# What you need to know

**Affordable housing: Housing funding bills need your support.** Legislation to provide significant and diverse funding streams is critical to meet the housing needs of the most vulnerable. A few proposals introduced this session include the Governor's bold housing bond bill, a new local and state real estate excise tax (REET), and the short-term rental tax to help fund affordable housing in vacation destination cities.

**As we round the halfway point, where do the ancillary housing bills stand?** In addition to the major housing bills focused on authorizing specific types of housing, dozens of others intend to boost housing production by focusing on process rather than style. Here's a status update on those scheduled for a hearing this week.

**Budget & finance: Today's state revenue forecast will kick off release of budget proposals.** The revenue forecast will set the tone for the Senate's release of its proposed budgets later in the week.

**Cannabis: Cities, not Liquor and Cannabis Board, could soon be responsible for regulating cannabis retailer signs. SB 5363** could soon place the authority to regulate the size of licensed cannabis retailer signs with local jurisdictions instead. **SB 5363** is scheduled for a hearing this week.

**Energy: Support bill prohibiting extreme heat utility shutoffs in Committee this week.** AWC encourages cities to sign in support of **HB 1329** as it's considered in the Senate Tuesday afternoon.

**Utility connection waiver bill tweaked to align with current law. HB 1326** moves closer to helping deliver utility services to low-income persons.

**Federal: Don't get duped – SAM.gov scams charge cities hundreds for free service.** Entities that receive federal funds are required to create an account with SAM.gov. Scammers are targeting cities by offering help with SAM.gov in hopes of securing payment for a free service or gaining access to sensitive information like banking or login information.

**Feedback needed by March 31 on federal Farm Bill.** This federal program affects urban and rural communities of all sizes. Senate leadership is collecting feedback through an online, bipartisan form that will be available through March 31. We encourage city leaders to provide feedback as soon as possible.

**General government: Voting Rights Act expansion scheduled for vote in the Senate.** A proposal to further expand and refine the Washington State Voting Rights Act is scheduled for a committee vote this week. AWC has requested an amendment to clarify and cap awards to plaintiffs who do not prevail in court.

**Union privilege bill scheduled for committee hearing. HB 1187,** creating a new legal privilege between unions and union members, is scheduled for a public hearing this week in the Senate. AWC has concerns with the current draft.

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**HR & labor relations: Bill imposing undefined “good faith” standard on self-insured cities scheduled for vote.** A problematic bill for cities that self-insure for workers’ compensation claims, **HB 1521** is scheduled for a committee vote in the Senate. AWC opposes and is recommending amendments.

**Employer access to PFML data in the lineup this week for House Labor Committee.** **SB 5586**, allowing employers access to certain PFML claims data for employees on leave, is scheduled for a public hearing this week in the House. AWC supports the bill.

**Bill on sharing employee info with unions rescheduled to this week.** **HB 1200** requires employers to provide employee contact and other information to unions.

**Human services: Eligible cities have one month left to sign on to the Attorney General’s opioid settlement with five companies.** The deadline for eligible cities to join the settlements and receive a portion of up to \$217 million is April 18, 2023. Local governments also need to have their regional Opioid Abatement Councils set up by July.

**Two behavioral health bills offer regional solutions.** **SB 5120** establishes 23-hour crisis relief centers, while **HB 1134** adds additional support for the 988 behavioral health crisis response and suicide prevention system. Both bills are scheduled this week.

**Open government: Public comment notice bill scheduled in the Senate.** **HB 1105**, which would require public agencies to include the end date of a public comment period in notices, is scheduled for public hearing. AWC worked with the sponsor to address our earlier concerns.

**Pensions: Retire/rehire bill heard in Senate.** **HB 1056**, authorizing retired public employees to return to limited work without losing their PERS benefits, was heard in the Senate Ways & Means Committee last week.

**Public safety & criminal justice: Blake bill scheduled for first hearing in the House.** **SB 5536** makes knowing possession of drugs a gross misdemeanor while focusing on options for treatment in lieu of criminal penalties. It provides accountability for individuals who, on multiple occasions, refuse or fail to comply with recommended treatment. We urge cities to express support for this priority bill with your House representatives.

**Washington could have an Office of Independent Prosecutions if bill passes Senate.** **HB 1579** aims to increase police accountability by establishing an Office of Independent Prosecutions to review investigations and conduct prosecutions of deadly use of force by law enforcement officers.

**Street racing bill scheduled for hearing in the House.** **SB 5606** seeks to curb illegal street racing and is scheduled for a public hearing in the House Civil Rights & Judiciary Committee this week.

**Public works & infrastructure: Express your support for procurement standards bill currently in the Senate.** **HB 1621** passed off the House floor on a unanimous vote but is beginning to receive pushback from contractors. AWC encourages cities to sign in support of **HB 1621** this week.

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# Affordable housing

## Housing funding bills that need your support

Contact: Carl Schroeder, Shannon McClelland

Legislation to provide significant and diverse funding streams to meet the housing needs of the most vulnerable in our state in the next 20 years is critical. There have been a few proposals introduced this session, including the Governor's bold bonding bill, a new local and state real estate excise tax (REET), and the short-term rental tax to help fund affordable housing in our vacation destination cities. Importantly, bills that will create a new funding source for the state are considered "necessary to implement the budget" (NTIB) and can miss cutoff deadlines to continue to be considered.

The budgets will start coming out this week and will shed light on the fate of the Governor's bonding proposal. An element of this companion bill, **HB 1149/SB 5202**, that is often overlooked are the provisions that would provide funding to create workforce housing—a housing need across the state. The bill would create the Workforce Housing Accelerator Revolving Loan Program to construct housing with low interest loans for households between 50-80% of the area median income. Notably, this section of the bill does not need to be approved by the referendum tied to the bonding sections of the bill; however, the funding and effective date is tied to the bonding piece.

Another bill that is NTIB and is languishing in committee is the Affordable Homes Act – **HB 1628**. We sent out an Action Alert directly to city leaders' inboxes on March 15 urging you to reach out to your legislators to support this REET bill:

### We need you to ask your legislators to:

- Advocate for funding of affordable housing, specifically **HB 1628**.
- Contact their leadership and tell them that this is a priority for them.

Search House Representatives by district and by city.

Additional talking points:

- Let your representatives know that cities support **HB 1628**—the Affordable Homes Act. Include the letter of support ([https://wacities.org/docs/default-source/legislative/031523hb1628reet3ahaletter.pdf?Status=Master&sfvrsn=9255264f\\_3](https://wacities.org/docs/default-source/legislative/031523hb1628reet3ahaletter.pdf?Status=Master&sfvrsn=9255264f_3)) when you urge them to move the bill forward.
- Let legislators know how much a REET 3, if passed by your council, could raise for affordable housing in your city each year ([https://wacities.org/docs/default-source/legislative/reetincreasebycity.pdf?Status=Master&sfvrsn=4b14264f\\_3](https://wacities.org/docs/default-source/legislative/reetincreasebycity.pdf?Status=Master&sfvrsn=4b14264f_3)).

**HB 1628** provides two new REET sources dedicated to affordable housing:

- 1. Local** – Creates a new .25% councilmanic local option REET (REET 3) that can be used to fund affordable rentals, affordable home ownership, and infrastructure to support housing.
- 2. State** – Creates a new state REET tier, increasing the current tax for the portions of property value exceeding \$5 million by 1%. That provision is projected to raise \$200 million per year for state housing programs.

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Finally, a bill that would give cities the option to add an excise tax on the sale of lodging of short-term rentals to fund the operation and capital cost of housing programs. Here's what **SB 5334** proposes:

- Allows a city to impose an excise tax on the sale of lodging of short-term rentals through a short-term rental platform at a rate of up to 10 percent.
- Authorizes a city to offer exemptions from the tax for one short-term rental property based on the property owner's age or income.
- Revenue from the tax must be used exclusively for the operating and capital costs of affordable housing programs, including but not limited to, homeless housing assistance, temporary shelters, and related services.
- Revenue may be used to make grants, loans, or to let contracts to nonprofit organizations or public housing authorities for services related to affordable housing programs.

This tax would not be considered when determining whether the lodging tax limit has been exceeded, including for determinations made when a city changes a sales and use tax rate.

Although the bill had a close vote to get out of the Senate, it is on the committee fast track and expected to be voted on this week. Reach out to your legislators to support this bill if you have a significant amount of short-term rental housing in your city.

### **Dates to remember**

**SB 5334** is scheduled for public hearing in the House Local Government Committee on Tuesday, March 21 at 10:30 am, and is scheduled for a vote in the same committee on Friday, March 24 at 10:30 am.

## **As we round the halfway point, where do the ancillary housing bills stand?**

Contact: Carl Schroder, Shannon McClelland

In addition to the major housing bills this session focused on authorizing specific types of housing in specific land use zones, dozens of other bills intend to boost housing production by focusing on process rather than style. Here's a status update on those scheduled for a hearing this week—and some are on the fast track to get out of committee.

### **Building code reform**

**SB 5491**, sponsored by Sen. Jesse Salomon (D–Shoreline), allows for multifamily housing units of a certain height to be served by a single emergency exit. The bill:

- Authorizes cities to adopt building codes for multifamily housing units served by a single exit under certain conditions.
- Requires cities that intend to adopt building codes for multifamily housing units served by a single exit to meet certain criteria prior to adoption.
- Requires the State Building Code Council to adopt, by rule, standards to allow for up to five stories of multifamily housing units to be served by a single exit no later than July 1, 2026, and make standards available for local adoption.

### **Permitting and inspection reforms**

**SB 5058** exempts buildings with 12 or fewer units in two or fewer stories from certain standards which play into the condominium liability challenges. These units would be exempt from:

- A requirement to submit a building enclosure design document.
- Obtaining a building enclosure inspection during construction or at sale.

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**HB 1293** focuses on SEPA reform and design review. It's on the fast track to get out of committee this week. You can read about the bill in our previous article (<https://wacities.org/news/2023/03/03/bill-implementing-several-awc-regulatory-reform-recommendations-moves-forward>).

**SB 5290** was originally the Governor request bill to provide grants to cities for permitting improvements and technical assistance. The Senate also added the permit timeline reform bill (<https://wacities.org/news/2023/02/03/two-more-lengthy-bills-focused-on-permit-processing>) that was a result of the GMA Roadmap process.

**SB 5412** would implement two recommendations of the AWC Housing Solutions Group: providing a categorical SEPA exemption to residential developments that are consistent with a city comprehensive plan and restricting design review to objective standards applied administratively.

### **Growth Management Act reform**

Two bills would implement growth management task force legislative recommendations:

- **HB 1425**, the annexation funding bill, got the support it needed to pass the House. No changes were made on the House floor, so the committee amendments (<https://wacities.org/news/2023/02/24/support-the-annexation-funding-bill-to-pass-out-of-the-house>) are still current. This bill is paired with **HB 1293** on the committee schedule.
- **SB 5457** is aimed at small cities. It would allow cities and towns with fewer than 500 people to opt out of the Growth Management Act comprehensive plan review and revision requirements under certain circumstances. It's a bit of a unicorn as it has not received a single amendment.

### **Dates to remember**

**SB 5491** is scheduled for public hearing in the House Committee on Housing Committee on Monday, March 20 at 1:30 pm.

**HB 1293** and **HB 1425** are scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, March 21 at 8 am. Both bills are scheduled for a vote in the same committee on Thursday, March 23 at 10:30 am.

**SB 5290**, **SB 5412**, and **SB 5457** are scheduled for public hearing in the House Local Government Committee on Tuesday, March 21 at 10:30 am. Both bills are scheduled for a vote in the same committee on Friday, March 24 at 10:30 am.

**SB 5058** is scheduled for public hearing in the House on Civil Rights & Judiciary Committee on Wednesday, March 22 at 8 am.

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## Impact map for transit-oriented development bill released, reveals broad scope

Contact: Carl Schroeder, Shannon McClelland

We have been updating cities on the progress of the Governor requested **SB 5466** which would mandate upzones around significant transit assets. AWC supports the goals and intents of this bill. Maximizing both density—and affordability—around rapid transit is a pillar of the proposal put forward by the AWC Housing Solutions Group. **SB 5466** has several elements that are more challenging, however, especially the scope of impact and restrictions of authority to provide for parking.

On the question of scope, we know individual cities have been doing evaluations. However, that has been difficult because of the convoluted construction and definitions of the bill. Last week, the Puget Sound Regional Council released the first authoritative map (<https://psregcncl.maps.arcgis.com/apps/instant/sidebar/index.html?appid=79f6708d234d4435aa578906e9d88243&locale=en>) of where the bill would apply within King, Pierce, Snohomish, and Kitsap counties and their cities. There are still no such definitive regional maps in the other parts of the state affected by this bill.

Frankly, when viewed at the regional scale, it becomes clear that the bill would require cities to authorize very tall buildings in most of the residential land in the population centers of Western Washington. For example, below is a snapshot centered around King County. In all areas within the grey shading, the bill requires a floor area ratio (FAR) of 4.0-6.0 depending on precise proximity to what type of transit asset.

The examples below from downtown Bellevue really illustrate the scope of what would be required to be authorized by the bill. The buildings below have FAR's in the 4.0-6.0 range. This shows what the standard looks like on the ground, and especially the heights that become authorized if any portion of the lot needs to be reserved for things like open space, trees, stormwater retention, or other standard building requirements and amenities.

The residential project closest to the camera is about 2.4 FAR. The 20-story residential project in the background is about 4.2 FAR.

These three office towers (16, 17 and 17 stories in height) are just over 5.0 FAR.

A final example from the City of Shoreline shows a building that is closer to a lot line-to-lot line approach to hitting a 4.0 FAR:

If you have concerns with this scope and impact, please contact your House members and share your perspectives. You can also ask them to talk to their colleagues on the House Housing Committee to express your positions.

The bill has had a public hearing, but executive session was delayed to take consideration of the concerns that were raised at the hearing. We expect the bill will be amended as it moves forward. Our core areas of focus are on the geographic scope, FAR level, parking restrictions, and the need for additional affordability and anti-displacement provisions.

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# Budget & finance

## Monday's state revenue forecast will kick off release of budget proposals

Contact: Candice Bock, Sheila Gall

This will be a busy week for budgets. Monday's state revenue forecast (<https://erfc.wa.gov/>) will set the tone for the Senate's release of their proposed budgets later in the week. The Senate capital budget proposal is expected to be the first budget released on Monday afternoon, followed by the Senate proposed operating budget on Thursday, March 23.

The House is expected to release its proposed budgets on the following Monday, March 27, followed by the Senate transportation budget on March 29.

AWC will review the proposals for the city budget priorities included in the letter sent to budget leaders last month and other programs impacting cities.

Watch for updates in AWC's newsletters over the next week.

### Dates to remember

The Senate Ways & Means Committee is scheduled to hear the proposed capital budget on Monday, March 20 at 4 pm and the proposed operating budget on Friday, March 24 at 2 pm.

# Cannabis

## Cities, not Liquor and Cannabis Board, could soon be responsible for regulating cannabis retailer signs

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

A bill removing the Liquor and Cannabis Board's (LCB) statutory authority to regulate the size of licensed cannabis retailer signs could soon place the authority with local jurisdictions instead. **SB 5363**, sponsored by Sen. Drew MacEwen (R-Union), is scheduled for a hearing and vote in the House Regulated Substances & Gaming Committee this week.

Currently, LCB has strict limitations on the type and size of signage that a cannabis retailer may display outside of their business. This bill would remove LCB's regulations on signage and put state law in line with a 2019 King County Superior Court decision that held that LCB's strict signage rules violated the First Amendment. Local governments would be allowed to adopt their own rules of outdoor advertising by cannabis retailers. Cities that are considering new ordinances in response to this potential new law should consult with legal counsel. If the bill is enacted, cities may want to adopt an updated sign ordinance prior to the bill's effective date in July. We will continue to keep cities updated as this bill moves through the legislative process.

### Dates to remember

**SB 5363** is scheduled for public hearing in the House Regulated Substances & Gaming Committee on Tuesday, March 21 at 4 pm, and for a vote in the same committee on Thursday, March 23 at 8 am.

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# Energy

## Utility connection waiver bill tweaked to align with current law

Contact: Brandy DeLange, Brianna Morin

AWC has been closely tracking a bill that would help deliver utility services to low-income persons. **HB 1326**, from Rep. Julio Cortes (D–Everett), permits municipal utilities to waive connection charges for properties that provide emergency shelter, transitional housing, permanent supportive housing, or affordable housing. Find our coverage of the bill as introduced (<https://wacities.org/news/2023/01/20/waivers-for-municipal-utility-connection-charges-would-be-allowed-under-new-bill>) and the amended version (<https://wacities.org/news/2023/02/20/utility-connection-waiver-proposal-fixed-to-save-costs-for-ratepayers>).

Having passed the House, **HB 1326** was heard last week in the Senate, where it received a technical amendment clarifying that the bill's definition of "connection charge" is the same as that used in existing statute, specifically, RCW 35.92.025.

AWC supports this bill.

**HB 1326** passed out of the Senate Local Government, Land Use & Tribal Affairs Committee. It awaits consideration in the Rules Committee.

## Support bill prohibiting extreme heat utility shutoff in Committee this week

Contact: Brandy DeLange Brianna Morin

AWC encourages cities to **sign in support of HB 1329** as the bill is heard in Committee this week.

We have been actively engaged with **HB 1329**, which prohibits water and electric utility shutoffs during periods of extreme heat. As introduced, the bill presented several implementation challenges for city utility providers. Check out our previous coverage here (<https://wacities.org/news/2023/02/10/implementation-of-extreme-heat-utility-shutoff-proposal-clarified-and-improved>) and here (<https://wacities.org/news/2023/03/03/extreme-heat-utility-shutoff-bill-simplified-re-aligned-with-existing-statute>).

After working with the bill sponsors and the Attorney General's Office to refine the bill such that cities would be able to implement it, AWC is now happy to support the proposal and urges cities to do the same. Contact your legislators and sign in or submit written testimony expressing your position.

### Dates to remember

**HB 1329** is scheduled for public hearing in the Senate Environment, Energy & Technology Committee on Tuesday, March 21 at 1:30 pm.

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# Federal

## **Don't get duped – SAM.gov scams charge cities hundreds for free service**

Contact: Jacob Ewing

Be aware that unscrupulous actors are targeting cities offering help with SAM.gov registrations and renewals.

As a reminder, entities that receive federal grants are required to create an account with the System for Award Management (SAM) - this includes cities that receive federal funds under the American Rescue Plan Act (ARPA). The federal government does not charge fees to create, renew, or update a SAM.gov account. SAM.gov is a free service provided by the federal government.

Scammers are targeting cities offering help with SAM.gov in hopes of securing payment for a free service or gaining access to sensitive information like banking or login information. Cities who have fallen victim to these services have been charged several hundred dollars.

Common subject lines from scammers create a sense of urgency to act. They may read something like the following:

- "Your Federal Profile is Almost Complete. Immediate Action Required!"
- "Get started with the SAM.gov renewal process online"
- "Update your SAM.gov account before it expires"

Here is an example of an email received by a city in Washington this year:

Other reports have indicated scammers are calling cities directly under the guise of being a federal employee directing cities to pay or provide information to create or update their SAM.gov account.

The federal government will never ask you for payment to create or renew a SAM.gov account. If you need to create or renew your account, visit SAM.gov directly. If you need assistance with your SAM.gov account, you can visit the Federal Service Desk's (FSD) website at FSD.gov. FSD is also a free federal service.

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## Feedback needed by March 31 on federal Farm Bill

Contact: Candice Bock, Jacob Ewing

Congress is expected to reauthorize the federal Farm Bill this year – Don't miss out on your chance to provide feedback on this critical piece of federal legislation.

While the word 'farm' is in the bill name, this federal program affects both urban and rural communities of all sizes. Administered by the United States Department of Agriculture (USDA), the Farm Bill is set to expire at the end of the fiscal year on September 30, 2023. This legislation greatly impacts rural and urban communities, farming livelihoods and food economies, which in turn affects the environment, local and regional economic growth, and public health.

Three key components of the bill that impact cities include:

- **Rural development:** The Farm Bill provides funding for drinking water, sewer, and storm drainage facilities in rural communities of 10,000 or less. Additionally, USDA receives funds to support broadband programs in rural communities.
- **Food and nutrition:** The Farm Bill is a key part of the Supplemental Nutrition Assistance Program (SNAP) which helps connect low-income individuals with access to healthy food options. Additionally, the Farm Bill provides grant funding to communities through the Healthy Food Financing Initiative and the Senior Farmers Market Nutrition Program.
- **Conservation programs:** The Farm Bill provides funding to improve water quality, reduce soil erosion, and enhance wildlife habitat. The USDA manages the \$4.95 billion Rural Conservation Partnership Program which provides grants for locally led conservation projects that address climate change, enhance water quality, and address other critical challenges on agricultural land.

Senate leadership is collecting feedback through an online, bipartisan form (<https://www.agriculture.senate.gov/farm-bill-input>) that will be available through Friday, March 31 at 5 pm EST. We encourage city leaders to provide feedback (<https://www.agriculture.senate.gov/farm-bill-input>) as soon as possible.

For more information on the Farm Bill and its impact on communities, please check out this February 2023 article (<https://www.nlc.org/article/2023/02/22/significance-of-the-farm-bill-reauthorization-for-every-community/>) from NLC.

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# General government

## Voting Rights Act expansion scheduled for vote in the Senate

Contact: Candice Bock, Katherine Walton

A proposal to further expand and refine the Washington State Voting Rights Act (VRA) is scheduled for a committee vote this week.

The bill would amend the Washington Voting Rights Act (WVRA) to make it easier for a plaintiff to bring a suit to court. **HB 1048** would allow a person or organization to be awarded up to \$50,000 for costs incurred prior to submitting their notice of intent to file a lawsuit against a local government alleging polarized voting if they prevail. Even if an individual or organization does not prevail, the bill still allows the court to award reasonable costs for work prior to filing a claim with no cap on those costs.

**HB 1048** also gives standing to organizations and tribes to challenge election systems on behalf of at least one member residing within the jurisdiction.

AWC strongly supports voting rights and ensuring appropriate representation in all levels of government. However, we have concerns about the potential fiscal impact on cities related to the potentially unlimited recovery of costs in cases where a group does not prevail. We continue to try to minimize these impacts while supporting voting rights.

AWC has requested an amendment to apply the \$50,000 cap on work conducted prior to the filing of a claim for these cases where a plaintiff doesn't prevail but can demonstrate that they had an impact on the jurisdiction's behavior and voting practices. We have also requested amendment language to better clarify this circumstance of a plaintiff not prevailing in court, but proving that they altered a jurisdiction's behavior.

Need a refresher on the WVRA? AWC maintains an implementation webpage (<https://wacities.org/data-resources/voting-rights-act-implementation>).

### Dates to remember

**HB 1048** is scheduled for a vote in the Senate State Government & Elections Committee on Friday, March 24 at 8 am.

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## Union privilege bill scheduled for committee hearing

Contact: Candice Bock, Matt Doumit

The bill creating a new legal privilege between unions and union members has been scheduled for a public hearing this week in the Senate.

We wrote extensively about **HB 1187** in last week's *Bulletin* here (<https://wacities.org/advocacy/news/advocacy-news/2023/03/10/union-member-privilege-bill-survives-cutoff>). As we outlined, AWC has a position of "other" on the bill because we agree it's appropriate to have some confidentiality protections for communications between unions and their members made during representation. However, we are still concerned that the broad union-member privilege as currently drafted could negatively impact cities.

AWC will raise the following issues that the bill should:

- Ensure that witnesses called to testify by a union or union member against a city are subject to normal rules for discovery, cross examination, and waiver of privilege (just like attorneys or doctors).
- Clarify that the privilege rests with the employee, except to the extent that one employee can't unilaterally waive privilege for other employees.
- Clarify that the privilege doesn't inhibit a city's ability to fully investigate and take appropriate action in employee misconduct situations, like harassment or discrimination, or in mandatory reporting situations.

If cities have other questions or concerns about the bill, feel free to reach out to us at Candice Bock or Matt Doumit. You can sign up to testify or submit written comments here (<https://app.leg.wa.gov/csi/Senate>).

### Dates to remember

**HB 1187** is scheduled for public hearing in the Senate Law & Justice Committee on Thursday, March 23 at 8 am.

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# HR & labor relations

## Bill on sharing employee info with unions rescheduled to this week

Contact: Candice Bock, Matt Doumit

A bill requiring employers to provide employee contact and other information to unions is scheduled for a public hearing this week in the Senate. It was originally scheduled for a hearing last week but was rescheduled for this week.

The current version of **HB 1200** requires public employers to provide certain employee information – including work and personal contact information, date of hire, salary, and jobsite location – to public employee unions. Employers have 21 days to provide information on new hires and must provide the same information again every 120 days for all employees in each bargaining unit. There is no provision for an employee to opt out of having their information shared.

Much of the employee information covered in the bill was already required to be shared with unions under current law, but current requirements don't have as many formal deadlines or list what needs to be included – leaving that up to negotiation between the employer and union. AWC had concerns about the early bill drafts but was able to improve the bill in the House to contain more reasonable and attainable timelines for updating unions with employee information. The bill passed out of the House on a 56-41 vote on March 2.

### Dates to remember

**HB 1200** is scheduled for public hearing on Tuesday, March 21 in the Senate Labor & Commerce Committee at 10:30 am.

## Employer access to PFML data in the lineup this week for House labor

Contact: Candice Bock, Matt Doumit

The bill to allow employers access to certain Paid Family & Medical Leave (PFML) claims data for employees on leave is scheduled for a public hearing this week in the House.

**SB 5586** changes the data privacy provisions of the PFML statutes to allow employers access to certain claims data for their employee's PFML claims. The bill would allow the Employment Security Department (ESD) to share with employers:

- The type of leave the employee is taking
- The approved dates/duration of leave
- Remaining hours of the employee's PFML entitlement
- The employee's weekly benefit amount
- The actual benefits paid and hours claimed

Employers can only use the claims information to administer their own internal leave and benefit practices. The bill passed the Senate unanimously on March 1.

AWC supports **SB 5586** because it will help clean up the PFML statutes and allow employers access to data they need to track employees' use of the PFML program and better manage their own internal leave and benefits. Current law doesn't allow ESD to share this information, and it is often difficult for employers to coordinate with employees about their return to work or other matters when they are on leave.

### Dates to remember

**SB 5586** is scheduled for a public hearing in the House Labor & Workplace Standards Committee on Wednesday, March 22 at 8 am.

*continued*

## Bill imposing undefined “good faith” standard on self-insured cities scheduled for vote

Contact: Candice Bock, Matt Doumit

A problematic bill for cities that self-insure for workers’ compensations claims had a hearing last week and is scheduled for a committee vote in the Senate this week.

**HB 1521** creates a duty of “good faith and fair dealing” for self-insured employers and their third-party administrators (TPAs) towards workers in self-insured workers’ compensation programs, with penalties for violating “good faith,” including “coercing” an injured worker to “accept less than the compensation due under [state industrial insurance laws].” It also contains a short 10 working day timeline for TPAs to reply to complaints, or else the Department of Labor & Industries (L&I) can order resolution of complaints without the TPA’s side of the story.

AWC is opposed to the bill and is recommending an amendment to:

- Clarify that a violation requires a willful failure to act in “good faith and fair dealing.”
- Remove L&I’s rulemaking authority under the bill to further define the duty of “good faith and fair dealing.”
- Remove the 1x to 52x the average weekly wage penalty in favor of treble penalties already contained in the bill.
- Make it clear that the bill does not create a new private right of action or expand an existing private right of action.

There are currently 18 cities that are self-insured:

- City of Auburn
- City of Bellevue
- City of Bellingham
- City of Bremerton
- City of Everett
- City of Kent
- City of Longview
- City of Olympia
- City of Puyallup
- City of Redmond
- City of Renton
- City of Richland
- City of Seattle
- City of Spokane
- City of Tacoma
- City of Vancouver
- City of Walla Walla
- City of Yakima

### Dates to remember

**SB 1521** is scheduled for a committee vote on Thursday, March 23 in the Senate Labor & Commerce Committee at 10:30 am.

*continued*

# Human services

## Two behavioral health bills offer regional solutions

Candice Bock, Lindsey Hueer, Katherine Walton

**SB 5120** establishes 23-hour crisis relief centers, a new category of credentialed behavioral health facilities in Washington state. 23-hour crisis relief centers would be open 24 hours per day, seven days a week and accept anyone in a behavioral health crisis who walks in the door, are brought in by first responders, or are referred through the 988 behavioral health crisis system. With very limited exceptions, all law enforcement referrals would need to be accepted. Centers would provide services and coordinate care, limiting patient stays to less than 24 hours in most cases. The bill would also eliminate triage facilities as a behavioral health category and convert those existing triage facilities into crisis stabilization units.

AWC will be monitoring the state budget proposals, to be released this week and next week, to assess the level of state investment in constructing and operating these new crisis stabilization centers. The bill creates the first step of a positive regulatory framework, and we will work with legislators to continue to express support for crisis behavioral health investments throughout the state.

**HB 1134** adds additional supports for the current 988 behavioral health crisis response and suicide prevention system (<https://doh.wa.gov/you-and-your-family/injury-and-violence-prevention/suicide-prevention/988-suicide-and-crisis-lifeline>), created by the Federal Communications Commission (FCC) in 2020. This bill establishes liability protection for several entities and personnel for activities related to the dispatching decisions of the hotline and the transfer of calls between 911 and 988. The bill also creates an endorsement for 988 rapid response crisis teams that meet standards and a grant program to support them.

AWC supports both bills' intent to increase access to crisis behavioral health services. Behavioral health is a top priority ([https://wacities.org/docs/default-source/legislative/factsheetbehavioralhealth2023.pdf?sfvrsn=ad3d254f\\_6](https://wacities.org/docs/default-source/legislative/factsheetbehavioralhealth2023.pdf?sfvrsn=ad3d254f_6)) for Washington cities this legislative session. In 2022, nearly a quarter of adults with mental illness in Washington state said that they were not able to receive the treatment they needed. Cities are not traditionally direct service providers, yet are often tasked with finding solutions for the impacts of the lack of available services.

### Dates to remember

**SB 5120** is scheduled for a vote in the House Committee on Health Care & Wellness on Wednesday, March 22 at 1:30 pm.

**HB 1134** is scheduled for public hearing in the Senate Health & Long Term Care Committee on Thursday, March 23 at 10:30 am.

*continued*



## Eligible cities have one month left to sign on to the Attorney General's Opioid Settlement with five companies

Contact: Sheila Gall, Katherine Walton

Eligible cities that choose to sign on have a little less than a month left to join the five most recent opioid settlements. **The deadline for cities to join the five settlements to receive a portion of up to \$217 million for eligible local governments is April 18, 2023.**

If your city has questions about the settlements or the process to join the settlements, please visit the AGO's website (<https://www.atg.wa.gov/opioid-pharmacy-manufacturer-settlements>) or contact Jeff Rupert, the Division Chief for the AGO's Complex Litigation Division at [Jeffrey.Rupert@atg.wa.gov](mailto:Jeffrey.Rupert@atg.wa.gov) **and** [comopioidscases@atg.wa.gov](mailto:comopioidscases@atg.wa.gov). AWC also held a webinar in February (<https://wacities.org/advocacy/news/advocacy-news/2023/02/27/eligible-cities-have-april-18-deadline-to-join-the-five-new-opioid-settlements-for-a-portion-of-217-million>) with more information on the settlements and participation process.

The status of local governments who have signed on can be found on the AG's website (<https://www.atg.wa.gov/opioid-pharmacy-manufacturer-settlements>). As with previous settlements, a minimum threshold of eligible city participation is required for the settlements to be implemented and eligible for the full amount.

### Opioid Abatement Councils

Eligible local governments were also supposed to have their Opioid Abatement Councils (OAC) set up before the next annual payments from last year's distributor settlement, which are due for distribution in July. As provided in the One Washington MOU ([https://agportal-s3bucket.s3.amazonaws.com/One Washington Memorandum of Understanding between the Washington Municipalities\\_0.pdf](https://agportal-s3bucket.s3.amazonaws.com/One%20Washington%20Memorandum%20of%20Understanding%20between%20the%20Washington%20Municipalities_0.pdf)), the regional OACs are a condition of the settlement agreements.

One of the key duties of the OAC is to develop and maintain a website that lists settlement fund spending by local governments in the region, updated annually. The OAC may be a preexisting regional body or may be a new body created for purposes of executing the obligations of the settlement. OAC membership is outlined in the One Washington MOU and includes representatives from participating cities and counties in the region who have work or educational experience in one of the approved opioid abatement uses under the agreement. The process for determining representation will be determined by the participating local governments, and regions may wish to build on existing regional public health structures to oversee the settlement allocations and reporting requirements. Several have been formed already if your region needs a model.

*Please note that AWC is facilitating the sharing of information between the AGO and cities. AWC is not part of the litigation and does not have a position on the pending litigation or the settlement offers. The information contained in these materials is for informational purposes and should not be considered legal advice. Each city will need to determine its own course of action in consultation with its legal counsel.*

*continued*

# Open government

## Public comment notice bill scheduled in the Senate

Contact: Candice Bock, Katherine Walton

A bill that would require public agencies to include the end date of a public comment period is scheduled for a committee hearing. **HB 1105** would subject government agencies to a civil penalty of \$500 for the first violation of the act and \$1000 for any subsequent violation.

AWC worked with the bill sponsor to address some unclear language and ensure that the requirement only applied in situations where there is a statutorily identified time period for public comment. In those cases the city would need to publish the final date it is accepting comments. For example, a statute that says that the public comment period must be 30 calendar days and notice is published on May 1, then the notice must specify that the deadline for accepting comments is May 31.

### Dates to remember

**HB 1105** is scheduled for public hearing in the Senate State Government & Elections Committee on Friday, March 24 at 8 am.

# Pensions

## Retire/rehire bill heard in Senate

Contact: Candice Bock, Matt Doumit

A House bill to authorize retired public employees to return to limited work without losing their PERS benefits was heard in the Senate Ways & Means Committee last week.

**HB 1056** permits PERS 2 & 3 retirees that retired under the 2008 early retirement factors to return to public employment as an employee or contractor for up to 867 hours per year without losing retirement benefits, starting in 2024. It also increases the benefits for those PERS 2/3 retirees that took early retirement under the 2000 early retirement factors (which offered a lower pension but allowed retire/rehire) to make their benefit equal to those that retired under the 2008 factors in future years. Currently, a PERS 2/3 retiree that retired under the 2008 early retirement factors that returns to public employment would lose their retirement benefits unless they were over the age of 65. The bill was voted out of the House in early February with a unanimous vote.

AWC supports this bill because it will make it more attractive for some former employees to return to work for cities if they can work part-time and still receive their pensions. In the current labor market, cities need all the tools they can get to find a qualified workforce to meet their residents' needs.

*continued*

# Public safety & criminal justice

## Contact your legislators about the need to support vehicular pursuits legislation

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

Even though the Senate kept the vehicular pursuits bill alive in a surprise move, the House has yet to take action on **SB 5352**. Time is running short on vehicular pursuits legislation and AWC urges cities to reach out to your legislators.

AWC needs cities to reach out to your House members to urge them to support **SB 5352** and ask their leadership to ensure the bill will be voted on. Your voices could make a substantial difference in whether this bill will move forward. While we are encouraged by the Senate's last-minute actions described below, the bill still has a considerable way to go if it will be enacted into law this session.

For most of the session, **HB 1363** had been the vehicle for revising the police pursuits statute to include a "reasonable suspicion" standard, striking a more appropriate balance between providing law enforcement with the tools needed to pursue dangerous suspects while focusing on appropriate and necessary safety standards. But the bill got bogged down and looked like it wouldn't have the votes to pass. Then, with just hours to go before the deadline, the Senate – in a rarely used procedural move – pulled their previously dead companion of the vehicular pursuits bill, **SB 5352**, straight to the floor for a vote. The amended bill adds vehicular assault and certain domestic violence offenses to the list of crimes for which police are authorized to pursue and passed in a close 26-23 vote (with mixed Democratic and Republican votes both for and against).

In the current version of the bill, a law enforcement officer would be authorized to engage in a vehicular pursuit if all the following conditions are met:

- The officer has 'reasonable suspicion' that the driver or a passenger:
  - Has committed or is committing a violent offense, sex offense, or an escape; or
  - Is driving under the influence.
- The pursuit is necessary to identify or apprehend the person.
- The person poses an imminent threat to the safety of others.
- The safety risks of failing to apprehend or identify the person are considered greater than the safety risks associated with engaging in a pursuit.

The bill also modifies the procedures for supervisor involvement, including requiring the officer to receive authorization and oversight from a supervisor (or on-call supervisor in jurisdictions with fewer than ten commissioned officers) to engage in a vehicular pursuit.

**SB 5352** has until March 29 to be voted out of the House Committee on Community Safety, Justice, & Reentry.

*continued*

## **Blake bill scheduled for first hearing in the House**

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

**SB 5536**, the so-called “*Blake fix*”, is a priority bill for AWC this year. It makes knowing possession of drugs a gross misdemeanor while focusing on many options for treatment in lieu of criminal penalties. It also provides accountability for individuals who, on multiple occasions, refuse substance use disorder treatment or fail to substantially comply with recommended treatment.

The following are the most critical components for cities:

- **Establishing that knowing possession of a controlled/counterfeit substance is a gross misdemeanor:** Making knowing possession of most drugs a gross misdemeanor gives adequate time for court monitoring. As a gross misdemeanor, municipal and district courts will have a sufficient length of time (up to 2 years) to monitor an individual’s compliance with substance use disorder treatment.
- **Emphasis on treatment:** AWC is supportive of the numerous opportunities within the bill to encourage an individual to obtain a substance use disorder evaluation and treatment. This includes the pre-trial diversion program created in the bill.
- **Sentencing:** AWC believes accountability, in the criminal justice process, is necessary in situations in which an individual refuses treatment, willfully abandons treatment, or consistently fails to comply with treatment. An infraction alone is insufficient.
- **State investments:** AWC is very supportive of the grant program for Law Enforcement Assisted Diversion (LEAD), as well as arrest and jail alternatives, 23-hour crisis relief centers, and opioid use disorder treatment efforts within local jails. AWC has also requested direct funding assistance for cities to help offset costs associated with these cases.

The debate regarding the permanent solution for the *Blake* case now rests with the House. The discussion over the best approach to drug possession will continue as the path in the House is not clear. It is important for cities to continue to express support for this bill with your House Representatives. **SB 5536** must move out of the House policy committee no later than March 29, 2023. We anticipate that the committee will vote on the bill March 28, just prior to the deadline.

### **Dates to remember**

**SB 5536** is scheduled for a public hearing in the House Community Safety, Justice, & Reentry Committee on Monday, March 20 at 1:30pm.

*continued*

## Street racing bill scheduled for hearing in the House

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

**SB 5606** seeks to curb illegal street racing and is scheduled for a public hearing in the House Civil Rights & Judiciary Committee this week.

This bill arose from specific concerns in the cities of Kent and Tacoma where they have experienced an increase in dangerous illegal street racing; however, this is a challenge in many communities. **SB 5606** creates definitions for “off-street facilities” and “drifting” and encourages law enforcement agencies to undertake a public education campaign to inform the public of the unlawful nature of illegal racing. The bill also allows law enforcement to impound vehicles used in street racing and creates procedures for impoundment. The bill would allow law enforcement to act in certain circumstances when individuals outside the city’s jurisdiction are encouraging or organizing street racing within the city.

AWC supports this effort to curb this unsafe and illegal activity.

### Dates to remember

**SB 5606** is scheduled for a public hearing in the House Civil Rights & Judiciary Committee on Tuesday, March 21 at 10:30 am, and for a vote in the same committee on Friday, March 24 at 10:30 am.

## Washington could have an Office of Independent Prosecutions if bill passes Senate

Contact: Candice Bock, Lindsey Hueer, Katherine Walton

**HB 1579** aims to increase police accountability in Washington by establishing an Office of Independent Prosecutions (OIP), led by an independent counsel, within the Attorney General’s Office (AGO). The OIP would have jurisdiction concurrent with county prosecuting attorneys to review investigations and conduct prosecutions of deadly use of force by law enforcement officers.

The OIP would receive notification of potential cases from the Office of Independent Investigations (OII), created by the Legislature in 2021 (<https://wacities.org/news/2021/04/16/legislation-establishing-office-of-independent-investigations-awaits-governor-s-signature>) and would then make charging decisions. If both the OIP and the county prosecuting attorney filed charges in a particular case, a court would determine whose prosecution of the case would best promote justice. However, functionally, the bill creates a virtual presumption that a county prosecuting attorney would have a conflict of interest in the prosecution of a local law enforcement officer.

### Dates to remember

**HB 1579** is scheduled for public hearing in the Senate Law & Justice Committee on Monday, March 20 at 10:30 am and for a vote in the same committee on Wednesday, March 22 at 6 pm.

*continued*

# Public works & infrastructure

## Express your support for procurement standards bill moving through the Senate this week

Contact: Brandy DeLange, Brianna Morin

A bill that standardizes local government procurement rules will be heard this week in the Senate and is worthy of your support.

**HB 1621**, from Rep. Cindy Ryu (D–Shoreline), increases contract limits that require competitive bidding, allows current employees to perform work under a certain cost limit, and outlines a standard definition of “lowest responsible bidder.” Read AWC’s summary of the bill as introduced (<https://wacities.org/news/2023/01/27/new-procurement-standards-aim-to-support-local-government-needs>).

The legislation passed off the House floor on a unanimous vote but is beginning to receive pushback from contractors **AWC encourages cities to sign in support of HB 1621 this week** to keep it moving through the Senate.

### Date to remember

**HB 1621** is scheduled for public hearing in the Senate Local Government, Land Use & Tribal Affairs Committee on Tuesday, March 21 at 8 am. It is scheduled for Executive Session in the same Committee on Thursday, March 23 at 10:30 am.

*continued*

## Share your concerns about prevailing wage bill heard in the House this week

Contact: Brandy DeLange, Brianna Morin

A bill requiring prevailing wage to be paid at the time work is delivered presents implementation challenges for cities.

**SB 5726** requires that wages paid to laborers of public works will be no less than the latest prevailing wage rate in effect at the time the work is performed. Several changes recently made to the bill on the Senate floor could confuse the bidding process and would create a requirement for excessive change orders. Read our summary of those amendments (<https://wacities.org/news/2023/03/03/changes-to-prevailing-wage-law-pass-the-senate-head-to-the-house-and-may-be-on-their-way-to-cities>) and prior coverage (<https://wacities.org/news/2023/02/27/prevailing-wage-proposal-fails-to-make-cutoff-in-one-bill-makes-it-past-deadline-in-another>) of the bill for background.

While AWC supports the underlying intent of the bill, we have several concerns about cities' ability to sustainably implement the policy. We encourage cities to **communicate your concerns with the impact of the bill this week** while it is considered by the House. Contact your legislator and testify or submit written comments to the Committee. AWC continues to advocate for a more streamlined bill.

### Date to remember

**SB 5726** is scheduled for public hearing in the House Labor & Workplace Standards Committee on Wednesday, March 22, at 8 am.

*continued*

## **AWC Legislative contacts**

During the legislative session, AWC's lobbyists often are unable to return your phone calls immediately. If you have a legislative or specific issue question, please request AWC's analyst staff, or send them an email.

Call AWC at (360) 753-4137 or 1-800-562-8981

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